

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x Case No. 07 CV 3116

WAN JIN LEEM,

Plaintiff,

v.

OK HWAN KIM, 341 SECOND AVE. FARM,
INC., DOES 1-100,

ANSWER

Defendants.

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Defendants, OK HWAN KIM and 341 SECOND AVE. FARM, INC., by and through their attorney, E. Peter Shin, Esq., as and for the Answer to the Complaint of Plaintiff WAN JIN LEEM herein, respectfully sets forth as follows:

1. Deny each and every allegations contained in paragraph 1 of the complaint except admit that Plaintiff worked as an employee of Defendants.

2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint.

3. Admit the allegation contained in paragraphs 3, 4, and 5 of the complaint.

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the complaint.

5. Admit the allegation contained in paragraphs 7 of the complaint.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the complaint except state that Plaintiff worked at night and had a one-hour meal break.

7. Deny each and every allegations contained in paragraph 9 of the complaint except state that the hourly rate for regular hours was \$7.25 and the hourly rate for the overtime hours was \$10.88 as per an Agreement between Plaintiff and Defendant.

8. Deny each and every allegations contained in paragraphs 10 and 11 of the complaint.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the complaint.

10. Deny each and every allegations contained in paragraphs 13 and 14 of the complaint.

IN ANSWER TO THE FIRST CAUSE OF ACTION

11. Defendants repeat and re-allege each and every allegation contained in paragraphs 1 through 10 of this answer as though more fully set forth herein.

12. Deny each and every allegations contained in paragraph 16 of the complaint.

IN ANSWER TO THE SECOND CAUSE OF ACTION

13. Defendants repeat and re-allege each and every allegation contained in paragraphs 1 through 12 of this answer as though more fully set forth herein.

14. Deny each and every allegations contained in paragraph 18 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

15. This Court lacks personal jurisdiction over the Defendants due to lack of proper service of the Summons and Complaint to said Defendants.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

16. For the years of 2004, 2005, and 2006, Plaintiff and Defendants entered into an employment agreement with respect to the hourly rate of pay for the regular hours and overtime hours.

17. As attached, according to an employment agreement dated January 1, 2006, Defendants agreed to pay Plaintiff for the regular hours at an hourly rate of \$7.25 and for the overtime hours at an hourly rate of \$10.88.

18. Defendants paid \$550.00 per week for Plaintiff's regular hours, overtime hours, and spread of hours.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

19. Plaintiff worked for 11 hours at night because he took a minimum of one-hour break for mealtime and sleeping.

WHEREFORE, Defendants respectfully demand judgment against Plaintiff as follows:

- a) Dismissing Plaintiff's complaint in its entirety, with prejudice;
- b) Awarding the costs and disbursements of this action in favor of the Defendants;
- c) Awarding such other and further relief as this Court deems to be just and proper.

Dated: Flushing, New York
May 9, 2007

Yours, etc.,
Law Offices of E. Peter Shin


E. Peter Shin (ES-4237)
Attorney for Defendants
158-14 Northern Blvd., 2nd Fl.
Flushing, NY 11358
Tel: (718) 463-3131

TO:

John D. Shyer, Esq. (JS-2706)
Latham & Watkins LLP
Attorney for Plaintiff
885 Third Avenue
New York, NY 10022-4834
Tel: (212) 906-1200

AGREEMENT FOR HOURLY EMPLOYMENT

Contrato de empleo por hora

EMPLOYER(Empleador)

ADDRESS(Direccion)

EMPLOYEE(Empleado)

ADDRESS(Direccion)

PHONE(Telfono)

SOCIAL SECURITY #(Numero de seguro social)

1 / 1 / 2006

Blooming House Farm

344 2 Ave New York NY

Jeff W.A.Y. Jim

2915 GR. Concourse #A5 Room NY 10468

646 369 - 0346

098 - 24 - 4161

THIS IS TO CONFIRM THAT THE UNDERSIGNED EMPLOYEE,

Esto es para confirmar que el empleado nombrado

(NAME) (Nombre)

IS FAMILIAR WITH THE TERMS AND CONDITIONS OF EMPLOYMENT STATED BELOW.

es familiar con los terminos y condiciones de trabajo escrito en lo siguiente.

THE EMPLOYEE WILL PROVIDE _____ SERVICES TO THE EMPLOYER, TO THE
El empleado proveera servicios de _____ para el empleador, para la

SATISFACTION OF EMPLOYER, AND EMPLOYEE WILL BE PAID SALARY OF \$ 7..25 PER
satisfaccion del empleador, y el empleado sera pagado un salario de \$ _____ por

HOUR FOR THE FIRST FORTY HOURS OF SERVICES RENDERED IN A WEEK. THE EMPLOYEE
hora. por los primeras cuarenta horas de servicio trabajado en una semana. El empleado

WILL BE PAID \$ 10..00 PER HOUR FOR HOURS OF WORK IN A WEEK WHICH ARE IN
sera pagado \$ _____ Por hora, por las horas trabajadas en

EXCESS OF FORTY HOURS.

exeso de las cuarenta horas.

THIS SHALL CONFIRM THAT THE COMMENCEMENT DATE OF THE EMPLOYMENT OF
EMPLOYEE BY EMPLOYER IS / / 200 . Esto es confirmar que el empleo ha
comenzado en el dia / / 200 .

THE EMPLOYMENT IS TERMINABLE AT WILL BY EITHER PARTY.

El empleo se podra terminar por deseo de uno.

EMPLOYEE HAS RECEIVED A COPY OF THIS AGREEMENT AND UNDERSTANDS THE
CONTENTS OF THE AGREEMENT. El empleado ha recibido una copia del contrato en
conocimiento del contenido de este contrato

EMPLOYEE: _____

(Empleado): _____

(SIGNATURE) (Firma)

EMPLOYED BY(Empleado por): _____

(SIGNATURE) (Firma)

(TITLE) (Titulo)

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ANSWER

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Attorney for Defendants:

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Tel: 718-463-3131